



# भारत का राजपत्र

## The Gazette of India

असाधारण

EXTRAORDINARY

भाग II — खण्ड 2

PART II — Section 2

प्राधिकार से प्रकाशित

PUBLISHED BY AUTHORITY

सं. 28]

नई दिल्ली, शुक्रवार, मई 13, 2005 / वैशाख 23, 1927

No. 28]

NEW DELHI, FRIDAY, MAY 13, 2005 / VAISAKHA 23, 1927

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।  
 Separate paging is given to this Part in order that it may be filed as a separate compilation.

### LOK SABHA

The following Bills were introduced in the Lok Sabha on 13th May, 2005:—

### BILL No. 76 OF 2005

*A Bill further to amend the Reserve Bank of India Act, 1934.*

BE it enacted by Parliament in the Fifty-sixth Year of the Republic of India as follows:—

1. (1) This Act may be called the Reserve Bank of India (Amendment) Act, 2005.

Short title and commencement.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint; and different dates may be appointed for different provisions of this Act.

2 of 1934.

2. In section 17 of the Reserve Bank of India Act, 1934 (hereinafter referred to as the principal Act),—

Amendment of section 17.

(i) after clause (6), the following shall be inserted, namely:—

“(6A) dealing in derivatives, and, with the approval of the Central Board, in any other financial instrument.

*Explanation.*— For the purposes of this clause, “derivative” means an instrument, to be settled at a future date, whose value is derived from change in one or a combination of more than one of the following underlyings, namely:—

- (a) interest rate,
- (b) price of securities of the Central Government or a State Government or of such securities of a local authority as may be specified in this behalf by the Central Government,
- (c) price of foreign securities,
- (d) foreign exchange rate,
- (e) index of rates or prices,
- (f) credit rating or credit index,
- (g) price of gold or silver coins, or gold or silver bullion, or
- (h) any other variable of similar nature;

(ii) after clause (12A), the following shall be inserted, namely:—

“(12AA) lending or borrowing of securities of the Central Government or a State Government or of such securities of a local authority as may be specified in this behalf by the Central Government or foreign securities;

(12AB) dealing in repo or reverse repo;

Provided that lending or borrowing of funds by way of repo or reverse repo shall not be subject to any limitation contained in this section.

*Explanation.*— For the purposes of this clause,—

(a) “repo” means an instrument for lending funds by purchasing securities of the Central Government or a State Government or of such securities of a local authority as may be specified in this behalf by the Central Government or foreign securities, with an agreement to resell the said securities on a mutually agreed future date at an agreed price which includes interest for the funds lent;

(b) “reverse repo” means an instrument for borrowing funds by selling securities of the Central Government or a State Government or of such securities of a local authority as may be specified in this behalf by the Central Government or foreign securities, with an agreement to repurchase the said securities on a mutually agreed future date at an agreed price which includes interest for the funds borrowed;”.

Amendment of  
section 42.

3. In section 42 of the principal Act,—

(i) in sub-section (1),

(a) for the words, brackets and figure “three per cent. of the total of the demand and time liabilities in India of such bank as shown in the return referred to in sub-section (2)”, the words, brackets and figure “such per cent. of the total of the demand and time liabilities in India of such bank as shown in the return referred to in sub-section (2), as the Bank may from time to time, having regard to the needs of securing the monetary stability in the country, notify in the Gazette of India” shall be substituted;

(b) the proviso shall be omitted;

(ii) sub-sections (1AA) and (1B) shall be omitted.

4. After Chapter III C of the principal Act, the following Chapter shall be inserted, namely:—

Insertion of new Chapter III D.

### “CHAPTER III D

#### REGULATION OF TRANSACTIONS IN DERIVATIVES, MONEY MARKET INSTRUMENTS SECURITIES, ETC.

##### 45U. For the purposes of this Chapter,—

Definitions.

(a) “derivative” means an instrument, to be settled at a future date, whose value is derived from change in interest rate, foreign exchange rate, credit rating or credit index, price of securities (also called “underlying”), or a combination of more than one of them and includes interest rate swaps, forward rate agreements, foreign currency swaps, foreign currency-rupee swaps, foreign currency options, foreign currency-rupee options or such other instruments as may be specified by the Bank from time to time;

(b) “money market instruments” include call or notice money, term money, repo, reverse repo, certificate of deposit, commercial usance bill, commercial paper and such other debt instrument of original or initial maturity up to one year as the Bank may specify from time to time;

(c) “repo” means an instrument for lending funds by purchasing securities with an agreement to resell the securities on a mutually agreed future date at an agreed price which includes interest for the funds lent;

(d) “reverse repo” means an instrument for borrowing funds by selling securities with an agreement to repurchase the securities on a mutually agreed future date at an agreed price which includes interest for the funds borrowed;

(e) “securities” means securities of the Central Government or a State Government or such securities of a local authority as may be specified in this behalf by the Central Government and, for the purposes of “repo” or “reverse repo”, include corporate bonds and debentures.

42 of 1956.

10 of 1949.  
42 of 1999.

45V. (1) Notwithstanding anything contained in the Securities Contracts (Regulation) Act, 1956 or any other law for the time being in force, transactions in such derivatives, as may be specified by the Bank from time to time, shall be valid, if at least one of the parties to the transaction is the Bank, a scheduled bank, or such other agency falling under the regulatory purview of the Bank under the Act, the Banking Regulation Act, 1949, the Foreign Exchange Management Act, 1999, or any other Act or instrument having the force of law, as may be specified by the Bank from time to time.

Transactions in derivatives.

(2) Transactions in such derivatives, as had been specified by the Bank from time to time, shall be deemed always to have been valid, as if the provisions of sub-section (1) were in force at all material times.

45W. (1) The Bank may, in public interest, or to regulate the financial system of the country to its advantage, determine the policy relating to interest rates or interest rate products and give directions in that behalf to all agencies or any of them, dealing in securities, money market instruments, foreign exchange, derivatives, or other instruments of like nature as the Bank may specify from time to time:

42 of 1956.

Provided that the directions issued under this sub-section shall not relate to the procedure for execution or settlement of the trades in respect of the transactions mentioned therein, on the Stock Exchanges recognised under section 4 of the Securities Contracts (Regulation) Act, 1956.

Power to regulate transactions in derivatives, money market instruments, etc.

(2) The Bank may, for the purpose of enabling it to regulate agencies referred to in sub-section (1), call for any information, statement or other particulars from them, or cause an inspection of such agencies to be made.

Duty to comply  
with directions  
and furnish  
information.

45X. It shall be the duty of every director or member or other body for the time being vested with the management of the affairs of the agencies referred to in section 45W to comply with the directions given by the Bank and to submit the information or statement or particulars called for under that section.”.

### STATEMENT OF OBJECTS AND REASONS

Financial sector reforms are marking steady progress in India. The Indian financial markets now have more products, participants and better liquidity than before. For more operational flexibility, the Reserve Bank of India needs to have enabling powers to use a larger variety of financial instruments than hitherto.

2. The volatility in the influx of foreign exchange and the market conditions in a fast changing economy, can be expected to continue in future as the financial sector makes more and more progress. To cope with any unforeseen eventualities in future, such as excess or lack of liquidity in the banking system and for effective conduct of monetary policy, there is a need to enable Reserve Bank of India to determine the Cash Reserve Ratio (CRR) for scheduled banks without any floor or ceiling. Globally, many Central Banking authorities have such powers. Further, in the context of the conduct of monetary policy becoming more market-based through progressive use of indirect instruments, the Reserve Bank of India needs more flexibility to set Cash Reserve Ratio, which is one of the two statutory pre-emptions in respect of the resources of banks.

3. Over-the-counter derivatives play a crucial role in reallocating and mitigating the risks of corporates, banks and other financial institutions. The ambiguity regarding their legal validity has inhibited the growth and stability of the market for such derivatives. It has become essential to provide for clear legal validity of such contracts.

4. At present, under section 29A of the Securities Contracts (Regulation) Act, 1956, the Central Government has delegated to the Reserve Bank of India, by a notification, the powers exercisable by it under section 16 of that Act, for regulating the transactions in money market and other instruments. Therefore, more effective regulation of the markets for interest rate contracts, including Government securities and money-market instruments as also derivatives, it is necessary to confer specific powers on the Reserve Bank of India, under the Reserve Bank of India Act, 1934, to lay down policy and to issue directions to agencies operating in these contracts, securities and derivatives.

5. It is, therefore, considered necessary to suitably amend the Reserve Bank of India Act, 1934. The salient features of the Bill which seeks to amend the RBI Act are as follows:—

- (a) define the expressions, 'derivative', 'repo' and 'reverse repo' in section 17 for the purposes of the business of the Bank and differently in new Chapter IIID for the purposes of regulatory powers of the Bank;
- (b) empower the Reserve Bank of India to deal in derivatives, to lend or borrow securities and to undertake repo or reverse repo;
- (c) remove the lower floor and upper ceiling of Cash Reserve Ratio (CRR) and to provide flexibility to RBI to specify CRR;
- (d) remove ambiguity regarding the legal validity of derivatives;
- (e) empower RBI to lay down policy and issue directions to any agency dealing in various kinds of contracts in respect of Government securities, money-market instruments, derivatives, etc., and to inspect such agencies.

6. The Bill seeks to achieve the above objects.

## BILL No. 72 OF 2005

*A Bill further to amend the Banking Regulation Act, 1949 and to make consequential amendments in certain other enactments.*

BE it enacted by Parliament in the Fifty-sixth Year of the Republic of India as follows:—

Short title and commencement.

1. (1) This Act may be called the Banking Regulation (Amendment) Act, 2005.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint; and different dates may be appointed for different provisions of this Act and any reference in any such provision to the commencement of this Act shall be construed as a reference to the coming into force of that provision.

10 of 1949.

2. In section 5 of the Banking Regulation Act, 1949 (hereinafter referred to as the principal Act), for clause (a), the following clause shall be substituted, namely:—

Amendment of section 5.

(a) "approved securities" means the securities issued by the Central Government or any State Government or such other securities as may be specified by the Reserve Bank from time to time;’.

3. In section 12 of the principal Act, in sub-section (1),—

Amendment of section 12.

(i) for clause (ii), the following clause shall be substituted, namely:—

1 of 1956.

"(ii) that notwithstanding anything contained in the Companies Act, 1956, the capital of such banking company consists of—

(a) ordinary or equity shares, and

(b) preference shares issued in accordance with the guidelines framed by the Reserve Bank specifying the class of, and the terms and conditions subject to which, the preference shares may be issued:

1 of 1956.

Provided that no holder of the preference share issued by the company shall be entitled to exercise the voting right specified in clause (b) of sub-section (2) of section 87 of the Companies Act, 1956.”;

(ii) the proviso shall be omitted;

(iii) sub-section (2) shall be omitted.

4. After section 12A of the principal Act, the following section shall be inserted, namely:—

Insertion of new section 12B.

'12B. (1) No person (hereinafter referred to as "the applicant") shall, except with the previous approval of the Reserve Bank, on an application being made, acquire or agree to acquire, directly or indirectly, by himself or acting in concert with any other person, shares of a banking company or voting rights therein, which acquisition taken together with shares and voting rights, if any, held by him or his relative or associate enterprise or person acting in concert with him, makes the applicant to hold five per cent. or more of the paid-up share capital of such banking company or entitles him to exercise five per cent. or more of the voting rights in such banking company.

Regulation of acquisition of shares or voting rights.

1 of 1956.

*Explanation.*— For the purposes of this sub-section,—

(a) "relative" shall have the meaning as assigned to it in section 6 of the Companies Act, 1956;

(b) "associate enterprise" includes an enterprise which,—

(i) is a holding company or a subsidiary company or a joint venture of the applicant; or

(ii) controls the composition of the Board of directors or other body governing the applicant; or

(iii) exercises, in the opinion of the Reserve Bank, significant influence on the applicant in taking financial or policy decisions; or

(iv) is able to obtain economic benefits from the activities of the applicant.

(c) persons shall be deemed to be "acting in concert" who, for a common objective or purpose of acquisition of shares or voting rights in excess of the percentage mentioned in this sub-section, pursuant to an agreement or

understanding (formal or informal), directly or indirectly co-operate by acquiring or agreeing to acquire shares or voting rights in the banking company.

(2) An approval under sub-section (1) may be granted by the Reserve Bank if it is satisfied that —

- (a) in the public interest; or
- (b) in the interest of banking policy; or
- (c) to prevent the affairs of any banking company being conducted in a manner detrimental or prejudicial to the interests of the banking company; or
- (d) in view of the emerging trends in banking and international best practices; or
- (e) in the interest of the banking and financial system in India,

the applicant is a fit and proper person to acquire shares or voting rights:

Provided that the Reserve Bank may call for such information from the applicant as it may deem necessary for considering the application referred to in sub-section (1):

Provided further that the Reserve Bank may specify different criteria for acquisition of shares or voting rights in different percentages.

(3) Where the acquisition is by way of transfer of shares of a banking company and the Reserve Bank is satisfied that such transfer should not be permitted, it may, by order, direct that no such share shall be transferred to the proposed transferee and may further direct the banking company not to give effect to the transfer of shares.

(4) The approval for acquisition of shares may be subject to such conditions as the Reserve Bank may deem fit to impose, including a condition that any further acquisition of shares shall require prior approval of the Reserve Bank and that the applicant continues to be a fit and proper person to hold the shares or voting rights.

(5) Before issuing or allotting any share to any person or registering the transfer of shares in the name of any person, the banking company shall ensure that the requirements of sub-section (1) are complied with by that person and where the acquisition is with the approval of the Reserve Bank, the banking company shall further ensure that the conditions imposed under sub-section (4), if any, of such approval are fulfilled.

(6) Every application made under sub-section (1) shall be deemed to have been granted, unless before the expiry of a period of ninety days from the date on which the application was received by the Reserve Bank, it communicates to the applicant that the approval applied for has not been granted:

Provided that in computing the period of ninety days, the period taken by the applicant for furnishing the information called for by the Reserve Bank shall be excluded.

(7) The Reserve Bank may specify the minimum percentage of shares to be acquired in a banking company if it considers that the purpose for which the shares are proposed to be acquired by the applicant warrants such minimum shareholding.

5. In section 20 of the principal Act, after sub-section (5), the following sub-section shall be inserted, namely:—

“(6) The Reserve Bank may, subject to such conditions as may be specified, grant to any banking company exemption from the provisions of this section in regard to any restriction on entering into any commitment for granting any loan or advance to any company referred to in sub-clause (iii) of clause (b) of sub-section (1).”.

Amendment  
of section 24.

6. In section 24 of the principal Act,—

(a) sub-sections (1) and (2) shall be omitted;

(b) for sub-section (2A), the following sub-section shall be substituted, namely:—

“(2A) A scheduled bank, in addition to the average daily balance which it is, or may be, required to maintain under section 42 of the Reserve Bank of India Act, 1934, and every other banking company, in addition to the cash reserve which it is required to maintain under section 18, shall maintain in India, assets, the value of which shall not be less than such percentage not exceeding forty per cent. of the total of its demand and time liabilities in India as on the last Friday of the second preceding fortnight as the Reserve Bank may, by notification in the Official Gazette, specify from time to time and such assets shall be maintained, in such form and manner, as may be specified in such notification.”;

(c) sub-section (2B) shall be omitted.

2 of 1934.

7. After section 29 of the principal Act, the following section shall be inserted, namely:—

‘29A. (1) The Reserve Bank may at any time direct a banking company to disclose in its financial statements or furnish to it separately, within such time and at such intervals as may be specified by the Reserve Bank, such statements and information relating to the business or affairs of any associate enterprise of the banking company as the Reserve Bank may consider necessary or expedient to obtain for the purpose of this Act.

1 of 1956.

(2) Notwithstanding anything to the contrary contained in the Companies Act, 1956, the Reserve Bank may, at any time, cause an inspection to be made of any associate enterprise of a banking company and its books and accounts by one or more of its officers or employees or other persons.

(3) The provisions of sub-sections (2) and (3) of section 35 shall apply *mutatis mutandis* to the inspection under this section.

*Explanation.*—“associate enterprise” in relation to a banking company includes an enterprise which—

(i) is a holding company or a subsidiary company or a joint venture of the banking company; or

(ii) controls the composition of the Board of directors or other body governing the banking company; or

(iii) exercises, in the opinion of the Reserve Bank, significant influence on the banking company in taking financial or policy decisions; or

(iv) is able to obtain economic benefits from the activities of the banking company.’.

8. After Part IIA of the principal Act, the following Part shall be inserted, namely:—

Insertion of  
new Part  
IIAB.

**PART IIAB**

**SUPERSESSION OF BOARD OF DIRECTORS OF BANKING COMPANY**

36ACA. (1) Where the Reserve Bank is satisfied that in the public interest or for preventing the affairs of any banking company being conducted in a manner detrimental to the interest of the depositors or any banking company or for securing the proper management of any banking company, it is necessary so to do, the Reserve Bank may, for reasons to be recorded in writing, by order, supersede the Board of directors of such banking company for a period not exceeding six months as may be specified in the order:

Supersession  
of Board of  
directors in  
certain cases.

Provided that the period of supersession of the Board of directors may be extended from time to time, so, however, that total period shall not exceed twelve months.

(2) The Reserve Bank may, on supersession of the Board of directors of the banking company under sub-section (1), appoint an Administrator for such period as it may determine.

(3) The Reserve Bank may issue such directions to the Administrator as it may deem appropriate and the Administrator shall be bound to follow such directions.

(4) Upon making the order of supersession of the Board of directors of a banking company, notwithstanding anything contained in the Companies Act, 1956,—

(a) the chairman, managing director and other directors shall, as from the date of supersession, vacate their offices as such;

(b) all the powers, functions and duties which may, by or under the provisions of the Companies Act, 1956 or this Act, or any other law for the time being in force, be exercised and discharged by or on behalf of the Board of directors of such banking company, or by a resolution passed in general meeting of such banking company, shall, until the Board of directors of such banking company is reconstituted, be exercised and discharged by the Administrator appointed by the Reserve Bank under sub-section (2):

Provided that the power exercised by the Administrator shall be valid notwithstanding that such power is exercisable by a resolution passed in the general meeting of such banking company.

(5) The Reserve Bank may constitute a committee of three or more persons who have experience in law, finance, banking, administration or accountancy to assist the Administrator in the discharge of his duties.

(6) The committee shall meet at such times and places and observe such rules of procedure as may be specified by the Reserve Bank.

(7) The salary and allowances to the Administrator and the members of the committee constituted by the Reserve Bank shall be such as may be specified by the Reserve Bank and be payable by the concerned banking company.

(8) On and before the expiration of two months before the expiry of the period of supersession of the Board of directors as specified in the order issued under sub-section (1), the Administrator of the banking company, shall call the general meeting of the company to elect new directors and reconstitute its Board of directors.

(9) Notwithstanding anything contained in any other law or in any contract, the memorandum or articles of association, no person shall be entitled to claim any compensation for the loss or termination of his office.

(10) The Administrator appointed under sub-section (2) shall vacate office immediately after the Board of directors of such banking company has been reconstituted.”.

Amendment  
of section 51.

9. In section 51 of the principal Act, in sub-section (1), before the words, brackets, figures and letters “sub-sections (1B), (1C) and (2) of section 30”, the figures and letter “29A,” shall be inserted.

Amendment  
of section 56.

10. (1) In section 56 of the principal Act,—

(A) in clause (o) relating to the modification of section 22,—

(a) in sub-section (1),—

(i) clause (a) shall be omitted;

1 of 1956.

1 of 1956.

(ii) after the proviso, the following proviso shall be inserted, namely:—

“Provided further that nothing in this sub-section shall apply to a primary credit society carrying on banking business at the commencement of the Banking Regulation (Amendment) Act, 2005, for a period of one year or for such further period not exceeding three years as the Reserve Bank may, after recording the reasons in writing for so doing, extend.”;

(b) in sub-section (2),—

(i) for the words, “every primary credit society which becomes a primary co-operative bank after such commencement shall before the expiry of three months from the date on which it so becomes a primary co-operative bank” the words, “every primary credit society which had become a primary co-operative bank at the commencement of the Banking Regulation (Amendment) Act, 2005, shall before the expiry of three months from the date on which it had become a primary co-operative bank” shall be substituted;

(ii) the words, “other than a primary credit society” shall be omitted;

(iii) in the proviso,—

(a) in clause (ii), for the words “thereafter; or” the word “thereafter,” shall be substituted;

(b) clause (iii) shall be omitted;

(B) in clause (s) relating to the modification of sections 29 and 30, for the words and figures, “sections 29 and 30” the word and figures, “section 29” shall be substituted;

(C) after clause (s), the following clause shall be inserted, namely:—

“(sa) for section 30, the following section shall be substituted, namely:—

“30. (1) Without prejudice to anything contained in any other law for the time being in force, where the Reserve Bank is satisfied that it is necessary in the public interest or in the interest of the co-operative bank or its depositors so to do, it may at any time by order direct that a special audit of the co-operative bank accounts, for any such transactions or class of transactions or for such period or periods as may be specified in the order, shall be conducted and may by the same or a different order appoint a person duly qualified under any law for the time being in force to be an auditor of companies to conduct such special audit, and the auditor shall comply with such directions and make a report of such audit to the Reserve Bank and forward a copy thereof to the co-operative bank.

Audit.

(2) The expenses of, or incidental to, the special audit specified in the order made by the Reserve Bank shall be borne by the co-operative bank.

(3) The auditor referred to in sub-section (1) shall have such powers, exercise such functions vested in and discharge the duties and be subject to the liabilities and penalties imposed on auditors, if any, appointed by the law establishing, constituting or forming the co-operative bank.

(4) In addition to the matters referred to in the order under sub-section (1) the auditor shall state in his report—

(a) whether or not the information and explanation required by him have been found to be satisfactory;

(b) whether or not the transactions of the co-operative bank which came to his notice have been within the powers of the co-operative bank;

(c) whether or not the returns received from branch offices of the co-operative bank have been found adequate for the purpose of his audit;

(d) whether the profit and loss accounts shows a true balance or profit or loss for the period covered by such account;

(e) any other matter which he considers should be brought to the notice of the Reserve Bank and the shareholders of the co-operative bank.”.

Amendment  
of certain  
enactments.

11. The enactments specified in the Schedule are hereby amended to the extent and in the manner mentioned in the third column thereof.

#### THE SCHEDULE

(See section 11)

Sl. No.	Short title	Amendment
1	The State Financial Corporation Act, 1951 (63 of 1951)	In section 7, sub-section (3), the words and figures “and the Banking Regulation Act, 1949” shall be omitted. 10 of 1949.
2.	The State Bank of India Act, 1955 (23 of 1955)	In section 12, the words and figures “and the Banking Regulation Act, 1949” shall be omitted. 10 of 1949.
3.	The State Bank of India (Subsidiary Banks) Act, 1959 (38 of 1959)	In section 20, the words and figures “and the Banking Regulation Act, 1949” shall be omitted. 10 of 1949.
4.	The Warehousing Corporations Act, 1962 (58 of 1962)	In section 5, the words and figures “and the Banking Regulation Act, 1949” shall be omitted. 10 of 1949.
5.	The Regional Rural Banks Act, 1976 (21 of 1976)	In section 7, the words and figures “and shall also be deemed to be approved securities for the purposes of the Banking Regulation Act, 1949” shall be omitted. 10 of 1949.
6.	The Industrial Finance Corporation (Transfer of Undertaking and Repeal) Act, 1993 (23 of 1993)	In section 10, the words and figures “and the Banking Regulation Act, 1949” shall be omitted. 10 of 1949.
7.	The Industrial Reconstruction Bank (Transfer of Undertakings and Repeal) Act, 1997 (7 of 1997)	In section 11, the words and figures “and the Banking Regulation Act, 1949” shall be omitted. 10 of 1949.
8.	The Unit Trust of India (Transfer of Undertaking and Repeal) Act, 2002 (58 of 2002)	In section 17, the words and figures “and the Banking Regulation Act, 1949” shall be omitted. 10 of 1949.

### STATEMENT OF OBJECTS AND REASONS

The Banking Regulation Act, 1949 has been in force for more than five decades. It empowers the Reserve Bank of India (hereinafter referred to as the Reserve Bank) to regulate and supervise the banking sector. The banks are now operating in a liberalised environment. In this scenario, it has become necessary that the banks in India are able to raise capital in accordance with international best practices. To ensure that the control of banks is in the hands of fit and proper persons, persons who propose to acquire 5% or more of the share capital of a bank should be required to obtain prior approval from the Reserve Bank and the Reserve Bank should have the necessary power to impose such conditions as it deems necessary while granting such approval. It is, therefore, proposed to remove the restriction on voting rights concurrently with the stipulation of the statutory requirement of prior approval for acquisition of shares above the specified limit. The Reserve Bank should also be able to specify acquisition of a minimum percentage of shares in a banking company if it considers necessary.

2. It is necessary to confer more operational flexibility on the Reserve Bank in the conduct of monetary policy. For this purpose, the Reserve Bank should have the power to specify Statutory Liquidity Ratio without any floor or ceiling as also to specify any security as approved security for this purpose.

3. The present restrictions on lending to directors and the companies or firms in which the directors are interested is posing a difficulty to banks in appointing competent independent directors. It is, therefore, necessary to empower the Reserve Bank to grant exemption to banking companies in appropriate cases.

4. Taking advantage of the liberalised environment, banks are engaging in multifarious activities through the medium of associate enterprises. The Reserve Bank as the regulator of banks should be aware of the financial impact of the business of such enterprises on the financial position of banking companies. The Reserve Bank should, therefore, be empowered to call for information and returns from the associate enterprises of banking companies also and inspect the same, if necessary.

5. The Reserve Bank has the power to remove any director or other officers of a bank but that power is not sufficient if the entire Board of directors of a bank is functioning in a manner detrimental to the interests of depositors or the bank itself. To deal with such a situation it is necessary that the Reserve Bank has the power to supersede the Board of directors of a bank and appoint an administrator to manage the bank till alternate arrangements are made.

6. For a sound and healthy banking system, it is necessary to ensure that only the co-operative societies that have been licensed by the Reserve Bank carry on the business of banking. To protect the interest of depositors, the primary co-operative societies should therefore be given a timeframe within which they have to either stop the business of banking or fulfil all the requirements specified by the Reserve Bank and obtain a licence to carry on the business of banking. The Reserve Bank should have the power to order a special audit of co-operative banks in public interest for a more effective supervision of co-operative banks. The proposed legislation aims to make the regulatory powers of the Reserve Bank more effective.

7. The Bill seeks to achieve the above objects.

## MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 2 of the Bill proposes to confer power upon the Reserve Bank of India to specify approved securities.

2. Clause 3 of the Bill proposes to empower the Reserve Bank to issue guidelines to specify the class of, and the terms and conditions subject to which, the preference shares may be issued.

3. Clause 4 of the Bill confers power upon the Reserve Bank to specify different criteria for acquisition of shares or voting rights in different percentages. This clause further empowers the Reserve Bank to specify the minimum percentage of shares to be acquired in a banking company by an applicant.

4. Clause 6 of the Bill empowers the Reserve Bank to specify such percentage of value of assets, which shall be maintained in India by every banking company.

5. The matters in respect of which notification or guidelines issued or specified are all matters of procedure and administrative details and it is not practicable to provide for them in the Bill itself. The delegation of legislative power is, of a normal character.

---

G.C. MALHOTRA,  
*Secretary-General.*